

# ALSTON & BIRD

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VIA CM/ECF

October 7, 2020

The Honorable Steven I. Locke  
United States District Court for the Eastern District of New York  
Long Island Courthouse  
100 Federal Plaza  
Central Islip, NY 11722

Re: *Signify North America Corporation et al., v. Satco Products, Inc.*, Case No.  
2:19-cv-06125-JMA-SIL

Dear Judge Locke:

Plaintiffs Signify North America Corporation and Signify Holding B.V. (together “Plaintiffs”) hereby respond to Satco’s motion to compel ITC materials (Dkt. No. 87, the “Motion”).

Satco’s Motion appears to be moot. Signify has already agreed to produce the materials within its possession regarding the ITC proceeding. To date, this has included the production of all Signify fact deposition transcripts, witness statements, and responsive documents.<sup>1</sup>

The additional materials that Satco seeks (expert reports, expert trial testimony, and trial demonstratives) are not in the possession of Signify or Signify’s counsel at Alston & Bird. This is because the materials contain confidential material belonging to Satco and/or third parties. Due to the ITC protective order, Signify is not permitted to view any third-party confidential business information that was disclosed in the ITC investigation. And because Alston and Bird did not represent Signify in the ITC investigation, they are not signed onto the protective order in that investigation, and thus do not (and cannot) possess the sought materials.

But Satco’s outside counsel Greenberg Traurig and Lynne Gartner **does** have the materials in its possession, custody, or control. Both firms represented Satco in the ITC proceeding and signed the ITC’s protective order.<sup>2</sup> Signify has agreed that all ITC materials may be considered produced in this litigation, subject to the ITC protective order. Satco’s counsel therefore may freely view the sought discovery and is in the best position to produce versions of the sought material that redacts third-party confidential material consistent with the ITC protective order.

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<sup>1</sup> Signify has agreed to have its ITC outside counsel at Akin Gump provide a revised redacted version of Dr. Zane’s opening expert report, which is currently being prepared.

<sup>2</sup> See Exs. 1-4.

As Satco recognizes, “the ITC Protective Order contains an exception that allows the supplier of the protected information to permit its disclosure.” Motion at 1-2. Signify has permitted disclosure of all ITC materials, and Satco is free to produce them (presuming all necessary third-party permissions have been obtained). Signify has reiterated this position to Satco several times, but Satco appears unwilling to do so.

Given that the requested materials are already in Satco’s counsel’s possession and subject to a Protective Order that prevents Signify’s counsel from accessing it, Satco should not be allowed to compel Signify to produce the material. For all of the above reasons, Satco’s motion to compel should be denied.

/s/ Adam D. Swain

Adam D. Swain (admitted pro hac vice)

*Counsel for Plaintiffs Signify North America Corporation and Signify Holding B.V.*

**TABLE OF EXHIBITS**

Ex. 1	Subscriptions to the Protective Order by Joshua L. Raskin, Julie P. Bookbinder, and Vimal Kapadia in <i>Certain LED Lighting Devices, LED Power Supplies, and Components Thereof</i> , Inv. No. 337-TA-1081 (U.S.I.T.C. Dec. 3, 2019).
Ex. 2	Subscriptions to the Protective Order by Scott J. Bornstein, Nicholas A. Brown, and Elana B. Araj in <i>Certain LED Lighting Devices, LED Power Supplies, and Components Thereof</i> , Inv. No. 337-TA-1081 (U.S.I.T.C. Nov. 12, 2019).
Ex. 3	Subscription to the Protective Order by Robert P. Lynn in <i>Certain LED Lighting Devices, LED Power Supplies, and Components Thereof</i> , Inv. No. 337-TA-1081 (U.S.I.T.C. Nov. 9, 2017).
Ex. 4	Subscription to the Protective Order by Stephen W. Livingston in <i>Certain LED Lighting Devices, LED Power Supplies, and Components Thereof</i> , Inv. No. 337-TA-1081 (U.S.I.T.C. Nov. 9, 2017).